

Message Text

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PAGE 01 STATE 040439
ORIGIN NEA-10

INFO OCT-01 ISO-00 COME-00 L-03 EB-08 IO-13 TRSE-00
CIAE-00 INR-10 NSAE-00 OES-07 DOE-11 SOE-02 OMB-01
XMB-02 PM-05 SP-02 SS-15 NSCE-00 SSO-00 INRE-00
/090 R

DRAFTED BY NEA/RA:DTMORRISON/USDOC/CAGNE:J HEARN:YW
APPROVED BY NEA/ARP:JWTWINAM
L/NEA:DSMALL
USDOC/ITA:SMARCUSS (SUBS)
-----031749 152353Z /64
O 152314Z FEB 78 ZFF4
FM SECSTATE WASHDC
TO AMEMBASSY ABU DHABI NIACT IMMEDIATE

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E.O. 11652: N/A

TAGS: ETRD, TC

SUBJECT: ARAB BOYCOTT: ADNOC REQUIREMENTS FOR RUWAIS
PROJECT

REF: A) ABU DHABI 420; B) STATE 30207

1. YOUR DETAILED REPORTING OF ADNOC SPECIAL CONDITIONS OF PURCHASE FOR RUWAIS PROJECT IS APPRECIATED.
 2. CONCUR IN YOUR ASSESSMENT (PARA 3 REF A) THAT U.S. FIRMS WOULD BE UNABLE TO CERTIFY INTENDED COMPLIANCE WITH SUCH CONDITIONS.
 3. ALTERNATIVE LANGUAGE PREPARED BY EMBASSY (PARA 5 REF A) WOULD NOT PLACE U.S. FIRM IN CONTRAVENTION OF EAA REGULA-
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TIONS IF PARA 5A CLAUSE "WITH RESPECT TO BOYCOTT OF ISRAEL" WERE DROPPED. HOWEVER, EMBASSY CANNOT REPEAT CANNOT TAKE INITIATIVE IN PROPOSING USE OF BOYCOTT LANGUAGE (EVEN IF WITHIN EAA PERMITTED EXCEPTIONS). FIRST, EAA HAS BROAD POLICY „OVISION (SEE PARA 3A REF B) WHICH MAINTAINS U.S. POSITION OF OPPOSING FURTHERANCE OF BOYCOTT PRACTICES EVEN WHERE THEY MAY NOT BE PROHIBITED UNDER U.S. LAW.

SECOND, MANY U.S. FIRMS HAVE ADOPTED POLICIES OF NOT BEING DRAWN INTO BOYCOTT COMPLIANCE PRACTICES TRIGGERING REPORTING REQUIREMENTS, EVEN WHERE SUCH PRACTICES (E.G., PRIMARY BOYCOTT AGREEMENT) ARE NOT NOW UNLAWFUL. PROPOSAL BY EMBASSY TO ADNOC FOR USE OF QUOTE LAWFUL UNQUOTE BOYCOTT CLAUSES COULD BE VIEWED AS PLACING SUCH FIRMS AT COMPETITIVE DISADVANTAGE.

4. THIRD, EVEN SUCH LANGUAGE AS PROPOSED BY EMBASSY (LIMITED TO PRIMARY BOYCOTT CERTIFICATIONS) MIGHT TRIGGER TAX PENALTIES UNDER TAX REFORM ACT (TRA) OF 1976. AS WE UNDERSTAND THE LATTER, NO EXCEPTION IS PROVIDED IN LAW TO PERMIT COMPLIANCE WITH PRIMARY BOYCOTTS OF SERVICES FROM A BOYCOTTED COUNTRY. ALTHOUGH NOT ADDRESSED IN TREASURY GUIDELINES, AGREEMENT BY A FIRM NOT TO FURNISH OR IMPORT INTO THE UAE SERVICES OF ISRAELI ORIGIN COULD PROVE TROUBLESOME IN A TAX CONTEXT.

5. ACCORDINGLY, WE BELIEVE BEST APPROACH BY EMBASSY IS TO URGE GOVT OF UAE TO ADOPT NORMAL COMMERCIAL DOCUMENTATION (E.G., REQUIREMENT IN UAE TENDERS FOR AGREEMENT THAT UAE LAWS WILL GOVERN TRANSACTION, IDENTIFICATION OF PARTIES INCLUDING PRIME AND SUBCONTRACTORS AND SUPPLIERS, SOURCES OF SUPPLY, PRECAUTIONARY CLAUSES AGAINST WAR RISK/ CONFISCATION, CONSULAR INVOICES, ETC.) WHICH MEET NEEDS OF ABU DHABI PURCHASERS AND ABU DHABI GOVT) AND AT SAME LIMITED OFFICIAL USE

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TIME PERMIT U.S. FIRMS TO COMPETE FREELY.

6. WE BELIEVE EFFORTS SHOULD BE MADE TO OBTAIN ACCEPTANCE OF CLEAN DOCUMENT APPROACH WHICH WILL FURTHER U.S. ANTI-BOYCOTT OBJECTIVES AND, AT SAME TIME, AVOID DRAWING U.S. FIRMS INTO REPORTING COMPLIANCE EVEN WITH PERMITTED USE OF BOYCOTT CLAUSES. AS EMBASSY IS AWARE, REPORTS OF BOYCOTT REQUESTS HAVE BEEN MISUNDERSTOOD IN THE PAST, AND MANY FIRMS SIMPLY ARE NOT WILLING TO DO BUSINESS ON BASIS WHICH WILL TRIGGER REPORTS WHICH CARRY IMPLICATION OF BOYCOTT COMPLIANCE

7. IF LANGUAGE PROBLEM CANNOT BE RESOLVED ON WHOLLY SATISFACTORY TERMS, NEXT BEST APPROACH MAY BE TO WORK OUT UNDERSTANDING WHICH PERMITS FIRMS TO BID ON TENDER REQUESTS CONTAINING PROHIBITED BOYCOTT CLAUSES BY TAKING EXCEPTION TO SUCH CLAUSES (I.E., MAKING CLEAR THAT U.S. FIRM CANNOT AGREE TO OR ACT TO COMPLY WITH THOSE PARTICULAR CONDITIONS). SEE PARA 4F OF REF B. SUCH ARRANGEMENT COULD AVOID RISK TO U.S. FIRMS OF LOSS OF BID BONDS, DISQUALIFICATION FROM CONTRACT AWARDS OR INTRODUCTION OF OTHER BOYCOTT CONDITIONS AT LATER STAGES OF PERFORMANCE (E.G., IN LETTERS

OF CREDIT).

8. HOW PARTICULAR ADNOC CLAUSES (PARA 6, REF A) WOULD BE TREATED UNDER EAA REGULATIONS IS NOT CLEAR BUT THEY COULD PROVE TROUBLESOME. EXAMPLE, NUMBER FIVE (SMALL ROMAN) UNDER EAA REGULATIONS COVERING "AGREEMENTS TO REFUSE TO DO BUSINESS" DOES MAKE CLEAR THAT UNQUALIFIED AGREEMENT TO COMPLY WITH LOCAL BOYCOTT LAWS CONSTITUTES AN AGREEMENT TO REFUSE TO DO BUSINESS. WITH RESPECT TO "GERMAN REPARATIONS" CLAUSES, IT IS NOT CLEAR HOW SUCH CONDITIONS MIGHT COME INTO PLAY IN THE CASE OF ACTIVITIES BY U.S. PERSONS OR HOW THEY WOULD BE TREATED UNDER EAA REGULATIONS. VANCE

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INFO OCT-01 ISO-00 COME-00 SIG-03 /014 R

66011

DRAFTED BY:NEA/RA:DTMORRISON

APPROVED BY:NEA/RA:HPRECHT

NEA/ARP:DWINN

USDOC:CAGNE:JHEARN

-----029368 091341Z /50

R 090645Z MAR 78

FM SECSTATE WASHDC

INFO RUEHAL/AMCONSUL ALEXANDRIA 0000

AMEMBASSY AMMAN

USINT BAGHDAD

AMEMBASSY BEIRUT

AMEMBASSY CAIRO

AMEMBASSY DAMASCUS

AMCONSUL DHAHRAN

AMEMBASSY DOHA

AMEMBASSY JIDDA

AMEMBASSY KUWAIT

AMEMBASSY MANAMA

AMEMBASSY MUSCAT

AMEMBASSY SANA

AMEMBASSY TEL AVIV

AMEMBASSY TRIPOLI

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FOL STATE 040439 SENT ACTION ABU DHABI FEB 14, 1978 REPEATED
TO YOU QUOTE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: REGULATIONS, BOYCOTTS, LEGISLATIVE BILLS
Control Number: n/a
Copy: SINGLE
Draft Date: 15 feb 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978STATE040439
Document Source: CORE
Document Unique ID: 00
Drafter: DTMORRISON/USDOC/CAGNE:J HEARN:YW
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780070-0515
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780250/aaaabqtk.tel
Line Count: 281
Litigation Code IDs:
Litigation Codes:
Litigation History:
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Message ID: 6ad4f2d8-c288-dd11-92da-001cc4696bcc
Office: ORIGIN NEA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
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Review Content Flags:
Review Date: 05 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
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SAS ID: 3583419
Secure: OPEN
Status: NATIVE
Subject: ARAB BOYCOTT: ADNOC REQUIREMENTS FOR RUWAIS PROJECT
TAGS: ETRD, TC
To: ABU DHABI
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/6ad4f2d8-c288-dd11-92da-001cc4696bcc
Review Markings:
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